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## PART I - THE SCHEDULE

### SECTION H - SPECIAL CONTRACT REQUIREMENTS

#### **H-1 Project Control Systems And Reporting Requirements**

##### **H-1.1 Project Control Systems**

- (a) In the performance of this contract, the Contractor shall establish, maintain and use a project control system that accurately reflects the project status relative to cost and schedule performance, and tracks changes to the baseline. This system shall be fully integrated with the financial accounting systems to ensure consistent reporting of costs. The Contractor may use a pre-existing project control system if such system satisfactorily addresses the system requirements defined below. The project control system must also meet the requirements of the following DOE guidance:
  - (1) DOE Order 430.1A, Life-Cycle Asset Management (LCAM), October 14, 1998;
  - (2) Integrated Planning, Accountability, and Budgeting System – Information Systems (IPABS-IS) Data Requirements, December 18, 1998;
  - (3) Integrated Planning, Accountability, and Budgeting System (IPABS) Handbook, February 16, 1999;
  - (4) HQ Baseline Change Control Charter, Office of Environmental Management, Rev. 0, June 23, 1999;
  - (5) DOE Order 413.3, Program and Project Management for the Acquisition of Capital Assets, October 13, 2000; and
  - (6) DOE Manual 413.3-1, Project Management for the Acquisition of Capital Assets, March 28, 2003.
- (b) The contractor shall provide the Contracting Officer with a detailed written description of the proposed project control system for review and approval within 90 days after award of this contract. Cost effective, graded application of controls will be a critical factor in determining acceptability of the proposed system.

The existing project control system may be used until such time as a replacement system is approved. The contractor shall evaluate the usefulness and cost effectiveness of the system and its relationship to the other site information systems. The evaluation shall also identify any enhancements or modifications that are necessary to bring the existing system into compliance with the requirements of the contract.

- (c) The DOE COR or designated representatives will conduct a compliance review of the contractor's proposed project control system to determine if the description and procedures meet the intent of this contract clause.

**H-1.2 Oak Ridge Environmental Management Accelerated Closure Project (OREMACP) Baseline**

- (a) The Contractor shall submit the Oak Ridge EM Accelerated Closure Baseline consistent with the terms and conditions of this contract within 60 days of execution of the contract modification. The baseline shall be developed in accordance with DOE Order 413.3 and include all of the scope of work identified in the Statement of Work (SOW). Additionally, the Contractor shall maintain the ORO EM Life Cycle Baseline (LCB) and ensure the integration of the OREMACP baseline into the LCB.
- (b) The Work Breakdown Structure (WBS) shall provide the basis for all project control system components, including estimating, scheduling, budgeting, performing, managing, and reporting, as required under this contract. The WBS levels should jointly represent the Project Baseline Summary (PBS) level.
- (c) Cost estimates shall be integrated with the WBS and use estimating methodologies that are consistent with DOE Order 413.3. The project control system must maintain capability to provide Total Estimated Cost (TEC), Total Project Cost (TPC), Estimates-to-Complete (ETC), Estimates-at Completion (EAC) along with tracking of Target Cost and Target Schedules.
- (d) Schedules shall be developed that integrates with the WBS. All project work scope shall be included regardless of funding source. Certain non-project level of effort work scope may be excluded at the discretion of the Contracting Officer. Each PBS will have assigned duration that will be based on work scope. Activity logic links shall depict all work scope constraints and decision points and shall be integrated into a total project network schedule. The project schedule shall clearly depict critical path activities and milestones. Activities shall be resource loaded at the lowest practical level of the WBS, but at a maximum at least one level below the PBS to develop time-phased budgets that are integrated with the schedule. Float analysis will be summarized at the PBS and total project levels.
- (e) The contractor shall propose at least five major milestones from the baseline by September 1 of each year for approval by the CO. These milestones shall represent the significant physical accomplishments scheduled for each fiscal year. Performance against these milestones will be considered when determining adjustments to the conditional fee payments.
- (f) The contractor shall analyze DOE proposed or directed funding changes for their impact on technical, schedule, and cost elements of the baseline, along with potential impacts to the Target Cost and Target Schedule.
- (g) Any contractor requested changes or DOE directed changes shall be addressed through the established change control process detailed in Section

H.1.4. This process will not, in and of itself, have the authority to change the Target Project Cost and Schedule.

- (h) Prior to the release of funds for each fiscal year, DOE will analyze the baseline for that fiscal year. By June 30 each year the DOE will provide an estimate of any budget restrictions or specific technical or schedule guidance for the upcoming fiscal years through the remainder of the project. The contractor shall prepare a project performance forecast for all upcoming fiscal years from the approved closure project baseline. The contractor shall submit budget allocations to each PBS for the upcoming fiscal year with a focus on differences to the work activities described in the Project Baseline for that specific year. This deliverable is known as the Annual Operating Plan (AOP), as derived from the OREMACP baseline.
- (i) The contractor shall provide variance justification for differences between planned and actual performance against the total project baseline and the Target Cost and Target Schedule. Performance analysis techniques shall be commercially accepted and documented, and shall utilize earned-value methods and shall be reported to DOE at the PBS level. Performance metrics (i.e., quantities) are preferred for all technical work scope unless otherwise approved by the Contracting Officer. For variances greater than  $\pm 10\%$ , the analysis shall detail the causes for variance, impact on other PBSs and corrective action required.
- (j) The EAC for the closure project shall be evaluated quarterly to ensure that it is consistent with observed trends in performance, emerging or resolved issues, and changes in the assessment of project risk.
- (k) All actual direct costs incurred for resources applied in the performance of work shall be recorded on a timely basis each month. Actual costs incurred must be recorded in the same accounting period that performance is measured and recorded. Any indirect costs shall also be collected and appropriately allocated to the PBSs.
- (l) Costs shall be collected at a charge number level and be able to be summed through the WBS, PBS and by major contractor functional organization. Mischarges on time cards or other administrative or accounting errors shall be corrected in a timely manner.
- (m) By October 15, 2003, a Risk Management Plan shall be developed that identifies the various internal and external risks to achieving the project baseline. The Risk Management Plan will analyze possible alternatives to mitigate impacts, and provide for routine reporting and periodic updating of the Plan at least annually

**H-1.3 Project Reporting**

- (a) The Contractor shall submit monthly status reports on each PBS and the total project in a format approved by the CO. At a minimum, the status shall include cost and schedule variance at a suitable WBS level with rollup to the PBS, the status of major milestones, and critical technical or programmatic issues.
- (b) Semi-Annual Critical Analysis (SACA). Twice each year the Contractor shall prepare and submit a comprehensive report which critically analyzes the overall status of the project as well as any key metrics. This report shall include overall narrative summaries, analysis of schedule trends and projects float, critical path performance, analysis of critical manpower skills of other resources, budget and funding figures, and project risk and contingency plan updates.
- (c) Plans and reports shall be prepared in such a manner as to provide for consistency with the contract Statement of Work, the project baseline, the approved Work Breakdown Structure, and correlation of data among the various plans and reports. The Contractor's reporting system shall be able to provide for the following at the subproject and PBS level:
  - 1) Timely incorporation of contractual changes affecting estimated cost and schedule;
  - 2) Reconciliation of estimated costs for those elements of the WBS with current performance measurement budgets in terms of changes to the authorized work and internal replanning
  - 3) Changes to records pertaining to work performed that will change previously reported costs for correction of errors and routine accounting adjustments;
  - 4) Revisions to the Contract's estimated costs for Government-directed changes to the contractual effort.
- (d) The Contractor shall provide the Contracting Officer, or Contracting Officers Representative, access to any and all information and documents comprising the Contractor's project control and reporting system.
- (e) The Contractor shall include graded reporting requirements in all subcontracts adequate to fairly evaluate performance and support the Contractor reporting requirements.

**H-1.4 Baseline Change Management**

- (a) The OREMACP is the source document for all project control and project baseline change management. The processes for managing and administering changes to all elements of the baseline shall be timely, formal, and documented.
- (b) Any change to the Target Schedule or Target Cost (above that stated in Section B) must be approved by DOE.
- (c) Provided that the baseline change does not affect the Total Contract Scope of Work, Target Cost, Target Schedule Completion dates, Gold Chart metrics, FFA milestones, and PBS milestones, the Contractor may approve baseline changes, but should notify DOE in writing prior to making the change (excluding administrative changes).
- (d) In some circumstances the contractor might exceed authorized budget levels for a PBS when a baseline change is not warranted, such as for cost overruns. The current year ETC Analysis shall track and manage changes in funding at each PBS level.
- (e) Specific change control time frames for consideration and approval will be established by the Contracting Officer. Each change control threshold level shall accommodate emergency changes. Retroactive changes that affect schedule and cost performance data are not allowed except to correct administrative errors. A record of all approved changes, at any level, shall be maintained through the life of the project. Change control records shall maintain a clear distinction between approved changes in funding and baseline changes. Ownership of Change Control Board records and Project Management records resides with DOE.
- (f) Any changes to target cost, target fee, or target schedule incentive fee shall be executed only by a contract modification pursuant to the contract terms and conditions. Baseline changes may not imply the need for changes to Target Cost, Target Schedules or Target Fee.

**H-2. DOE Contract Administration and Oversight**

- (a) The OREMACP presents significant work scope challenges to the Contractor, and makes it imperative that the DOE has a focused approach for providing oversight of Contractor work. This approach shall provide effective DOE oversight of project work, yet it must not present the contractor with burdensome or "non-value added" work related distractions.

The DOE oversight approach shall be included in a DOE Oversight Plan. This plan shall include reviews of periodic administrative progress reports submitted by the Contractor and direct observation by DOE employees of Contractor work in progress. The DOE oversight of work in progress will

include specific provisions for the designation and qualification of DOE employees conducting oversight activities. This will include the following elements:

- 1) The number of DOE employees providing technical direction to the contractor will be limited and formally designated, by name, in writing by the CO.
  - 2) The DOE employees assigned oversight responsibilities will be trained and qualified in areas of technical competency. The areas of technical competency will focus on the work conducted by the contractor (i.e., waste packing, facility demolition, facility decontamination, crane operation and heavy-lifting safety, etc.). Prior to conducting formal oversight of contractor work, the technical competency of designated DOE employees will be examined, approved and documented as defined in the DOE Oversight Plan. This plan will be approved by the Assistant Secretary for Environmental Management.
- (b) The DOE oversight activities will focus primarily on a safe, accelerated closure of the OREMACP. The DOE oversight will be conducted in a tailored and proactive manner with minimal interference with project progress. The contractor shall respond to DOE oversight and to concerns, findings and observations as identified in writing by the CO or COR during the conduct of these oversight activities. The five fundamental areas of oversight are as follows:
- 1) Project Management Oversight: This includes daily field inspections and the monthly and quarterly assessment of project status, which will be used to determine and validate project performance. The qualification of DOE employees conducting this oversight is described in paragraph (a) above.
  - 2) Contract Management Oversight: Administration and monitoring of the prime contract will be in accordance with the contract terms and conditions which include, but are not limited to, the oversight required under FAR Subchapter G – Contract Management (FAR Parts 42-51) and its supplements.
  - 3) Financial Management Oversight: The DOE will review all budgetary data submitted by the contractor to be provided into IPABS. The DOE will review the status of all designated Oak Ridge management commitments. The DOE will monitor and audit contractor funds management practices and procedures to ensure compliance with applicable regulations and statutes.
  - 4) Daily Oversight: The DOE Facility Representatives, Project Managers and Subject Matter Experts will conduct daily oversight. The qualification of DOE employees conducting this oversight is described



in paragraph (a) above. The purpose of these contacts will be to assess compliance with the terms and conditions of the closure contract. In addition to this daily involvement, the contractor shall support:

- (i) Senior management walk-throughs, conducted in scheduled areas of the plant or locations where significant work is ongoing.
  - (ii) Specific tours of buildings just prior to demolition, or potential release sites that have been deemed as response actions.
  - (iii) Periodic walk-throughs by the regulators, Defense Nuclear Facilities Safety Board (DNFSB), or DOE Headquarters personnel.
  - (iv) Employee concerns elevated to the DOE for evaluation.
- 5) Scheduled Assessments: The DOE will publish a three-year schedule of assessments. Adjustments will be made no fewer than 30 days prior to any planned assessment (with the exception of a "For Cause" review). Specific assessment details will be provided 30 days in advance to the involved organizations. Assessment reports will be formally transmitted to the contractor for development of a corrective action plan, if required. The DOE will verify and validate the contractor's effectiveness in correcting the root cause problem of the concerns and findings.
- (c) The COR for giving technical direction is listed below. The contractor shall use the COR designated as the primary point of contact on technical matters (See the Correspondence Procedures clause, Section G, for definition), subject to the restrictions of clause entitled "Technical Direction" in Section H.

Stephen McCracken, Assistant Manager for Environmental Management

The individuals listed below are delegated with limited COR authority as identified.

Dennis Boggs, Alternate Contracting Officer's Representative

Amy Rothrock, Freedom of Information Act, Privacy Act

Future revisions of the COR may be accomplished by written notification from the CO to the contractor, without a formal contract modification.

**H-3. Technical Direction**

- (a) Performance of the work under this contract shall be subject to the technical direction of DOE Contracting Officer's Representative(s) (CORs). The term "technical direction" is defined to include, without limitation:
  - (1) Directions to the Contractor which redirect the contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual Statement of Work.
  - (2) Provision of written information to the Contractor which assists in the interpretation of drawings, specifications or technical portions of the work description.
  - (3) Review and, where required by the contract, approval of technical reports, drawings, specifications and technical information to be delivered by the Contractor to the Government under the contract.
  - (4) Directions to the Contractor which suspend work when clear and present danger exists to workers or members of the public. Clear and present danger is a condition or hazard which could be expected to cause death or serious harm to workers, members of the public, or the environment, immediately or before such condition or hazard can be eliminated through normal procedures. The Contractor shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, such work stoppage.
- (b) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction which:
  - (1) Constitutes an assignment of additional work outside the Statement of Work;
  - (2) Constitutes a change as defined in the contract clause entitled "Changes – Cost Reimbursement - Alternate 1" in Section I;
  - (3) In any manner causes an increase or decrease in the total estimated contract cost, the fixed fee (if any), or the time required for contract performance;
  - (4) Changes any of the expressed terms, conditions or specifications of the contract; or
  - (5) Interferes with the Contractor's right to perform the terms and conditions of the contract.

- (c) All technical directions shall be issued in writing by the COR.
- (d) The Contractor shall proceed promptly with the performance of technical directions duly issued by the COR in the manner prescribed by this clause and within his/her authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (b)(1) through (5) above, the Contractor shall not proceed but shall notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and shall request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer shall:
  - (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the clause entitled "Changes – Cost Reimbursement – Alternate I" in Section I;
  - (2) Advise the Contractor in writing within 30 days after receipt of the Contractor's letter not to perform under the direction and cancel the direction; or
  - (3) Advise the Contractor in writing within a reasonable time that the Government will issue a written change order.
- (e) A failure of the Contractor and Contracting Officer to agree that the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto shall be subject to the provisions of the clause entitled "Disputes--Alternate I" in Section I.

#### **H-4. Government Furnished Services and Items (GFS&I)**

The DOE and the Contractor recognize that implementation of the SOW in an optimized fashion is dependent upon many activities, including the GFS&I identified below. Within thirty (30) calendar days after the effective date of the contract and by September 1 prior to each fiscal year end, the contractor shall provide the CO a projection of its needed Government Furnished Services and Items (GFSI), identified in table below. The contractor shall also provide quarterly updates to this projection, if changes occur, to the CO. Amendments to the projection, if any, shall be provided to the CO 45 calendar days in advance of the GFSI need date. DOE will review each contractor submittal of GFSI needs and, within 15 calendar days, shall notify the contractor whether it will provide the requested GFSI. If DOE will not provide the GFSI as requested by the contractor, DOE will identify when it can provide the requested GFSI within 30 calendar days of the request. If DOE cannot provide the request for GFSI within the time periods listed in the table below, the Contractor may be entitled to pursue remedies in the manner and subject to the limitations set out in subparagraphs (b) and (h) of the clause entitled "DEAR952.245-5 Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts)" in Section I.

<b><u>GFS&amp;I</u></b>	<b><u>REQUIREMENT</u> *</b>
CERCLA Document Approvals, Pre-ROD	In accordance with FFA protocol
CERCLA Document Approvals, Post-ROD	In accordance with the Accelerated Closure Plan June 2002 Regulator Agreement.
Receiver site for DUF <sub>6</sub> Cylinders	The Department will identify the approved receiver site(s) for DUF <sub>6</sub> cylinders to meet the Contractor's critical path schedule for removal and transportation of cylinders relative to accomplishing closure of ETPP.
Security Clearances	DOE shall promptly process Contractor security clearances in accordance with DOE O 472.1c. On average, processing time will be as follows: "L" – 120 days; "Q" – 150 days. Processing time begins upon receipt of a properly filled out case from the Contractor as required by DOE O 472.1c.
RFP and Subcontract Approvals for Actions within ORO Threshold	7 business days to provide comments. Once comments satisfactorily addressed by the Contractor, 3 business days to approve
RFP and Subcontract Approvals for Actions above ORO Threshold	12 business days to provide comments. Once comments satisfactorily addressed by the Contractor, 8 business days to approve
TRU Overpacks	As required with proper advance notification
Approval of Safety Basis Documents	HAD – 30 cal. days New DSA/TSR (includes BIO, SAR, etc.) – 90 cal. days Annual Update of DSA – 45 cal. days (if new scope added, will be treated as new DSA) TSR/DSA Change Packages and JCO's – 45 cal. days (if very complex, 90 cal. days) Emergency Management Hazard Assessments – 45 cal. days
Approval of permits, burn plans, historic preservation, NEPA documents	10 working days following any regulatory required review and approval timetables.
Offsite waste disposal at DOE controlled sites	Available when needed per the baseline schedule.
DOE Oversight of Contractor Work	Within 30 days of contract modification, DOE will provide to the contractor a DOE Oversight Plan in accordance with clause H-2.
Utility Services	As required

\* All time requirements for DOE approvals are contingent upon the document submitted by the Contractor for approval being complete, accurate, and adequate in content and quality.

#### **H-5. Withdrawal of Work**

- (a) The Contracting Officer reserves the right to have any of the work contemplated by Section C, Statement of Work, of this contract performed by either another contractor or to have the work performed by Government employees.
- (b) If any work is withdrawn by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide transition support as required. Notwithstanding the clause entitled "Obligation of Funds" in Section I, the Contracting Officer may unilaterally deobligate funding associated with any such withdrawal of work.

**H-6. Conditional Payment of Fee – Environment, Safety, and Health and Safeguarding Restricted Data and Other Classified Information and Materials**

The Environmental Management mission is to accelerate the environmental cleanup work scope in accordance with the Oak Ridge Comprehensive Closure Plan (ORCCP) beginning in FY 03. Financial incentives are established to promote acceleration of the work. However, efforts to attain these incentives should never compromise or impede full and effective implementation of Integrated Safety Management or full ES&H and Safeguards and Security compliance, including safeguarding of Restricted Data, and other classified information (i.e., Formerly Restricted Data and National Security Information) and materials.

The Contracting Officer may apply appropriate fee deductions after the fact to subsequent fee payments, provided such fee adjustments are identified in writing to the Contractor within six (6) months of date of the event or incident occurrence or within six (6) months of the determination of a significant adverse safety trend or pattern demonstrating a breakdown in basic management systems for safety or security. This clause is in addition to any other remedies available to the Government that may be contained in this contract.

The Contracting Officer shall apply only a single fee deduction for each separate event even if a single event may qualify for more than one fee deduction. However, fines and penalties imposed under the Price-Anderson Act are excepted from this provision. If an event or incident results in Price Anderson fines or penalties, the PAAA fines or penalties will apply. If the applicable deduction is greater than the fine or penalty, the difference between the PAAA and the applicable deduction will be an adjustment to the fee payment. The Contracting Officer shall ensure that Contractor receives impartial fair and equitable treatment, as set forth in FAR 1.602-2.

- (a) Environment, Safety, and Health – The Contractor shall develop, obtain DOE approval of, and implement a Safety Management System in accordance with the provisions of the clause entitled "Integration of Environment, Safety and Health into Work Planning and Execution" in Section I. Cost and schedule variances due to work delays resulting from contractor safety management lapses or non-compliance with requirements will generally not be accepted as a basis for adjustment to the contract cost and schedule requirements. If the Contractor fails to meet the specified annual safety performance objectives, performance measures, and commitments as established to comply with the provisions of the clause entitled "Integration of Environment, Safety, and Health into Work Planning and Execution" in Section I, the DOE Operations Office Manager or his/her designee, at his/her sole discretion, may reduce the minimum fee, target fee, and maximum fee up to four quarters of scheduled fee.

If, in the performance of this contract, there is a catastrophic event (such as a fatality, hazardous material exposure exceeding regulatory limits, an event

that causes significant damage to the environment, or an event that causes grave damage to national security), the DOE Operations Office Manager or his/her designee, at his/her sole discretion, may reduce the minimum fee, target fee, and maximum fee up to four quarters of scheduled fee payments per occurrence. In determining any diminution of fee resulting from a catastrophic event, the DOE Operations Office Manager or his/her designee will consider whether willful misconduct and/or negligence contributed to the occurrence and will take into consideration any mitigating factors presented by the contractor or other sources.

- (b) Safeguards and Security – The payment of fee under this contract is dependent upon the contractor's compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information (i.e., Formerly Restricted Data and National Security Information) including compliance with applicable law, regulation, and DOE directives. In addition to other remedies available to the Federal Government, if the contractor fails to comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data, other classified information, or classified materials, the DOE Operations Office Manager or his/her designee, at his/her sole discretion, may reduce the minimum fee, target fee, and maximum fee up to four quarters of scheduled fee payments per occurrence. Any reduction in the amount of fee earned by the contractor will be determined by the severity of the contractor's failure to comply with contract terms and conditions. Most serious are performance failures that have been determined, in accordance with applicable DOE regulation or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security.
- (c) The parties agree, any Contracting Officer's determination under this clause shall be unilateral and is not subject to the clause entitled "Disputes" in Section I of this contract.
- (d) In no event shall the reduction in any fiscal year exceed four quarters of scheduled provisional fee payments.

#### **H-7. Price Anderson Amendments Act Noncompliance**

The Contractor shall establish an internal Price Anderson Amendments Act noncompliance identification, tracking, and corrective action system and shall provide access to and fully support DOE reviews of the system. The Contractor shall also implement a Price Anderson Amendments Act reporting process which meets applicable DOE standards. The Contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

#### **H-8. Defense Nuclear Facility Safety Board**

As directed by the Contracting Officer's Representative, the Contractor shall conduct activities in accordance with those DOE commitments to the Defense Nuclear Facilities Safety Board (DNFSB) which are contained in implementation plans and other DOE correspondence to the DNFSB. The Contractor shall support preparation of DOE responses to DNFSB issues and recommendations which affect or can affect contract work. Based on Contracting Officer's Representative direction, the Contractor shall fully cooperate with the DNFSB and provide access to such work areas, personnel, and information as necessary. The Contractor shall maintain a document process consistent with the DOE manual on interface with the DNFSB. The Contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

#### **H-9. Permits, Applications and Licenses**

- (a) Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the state, territory, and political subdivision in which the work under this contract is performed.
- (b) In recognition of the Contractor's responsibility to operate in compliance with all applicable environmental requirements, the Contractor agrees to sign environmental permits and applications as "operator" or "co- operator" if deemed appropriate by DOE and the cognizant regulatory agency. To clarify the resulting obligations under the contract, the parties agree to the following:
  - (1) The Contractor is responsible for signing permit applications and obtaining all necessary environmental permits. The Contractor shall accept assignment of permits currently held by DOE and its existing prime contractors. DOE will co-sign Hazardous Waste and State Dangerous Waste permit applications as owner where required by applicable law.
  - (2) DOE agrees that if bonds, insurance, or administrative fees are required as a condition for such permits, such costs shall be allowable. In the event that such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with an acceptable form of financial responsibility. Under no circumstances shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.
  - (3) The Contractor shall simultaneously submit all reports required by permits directly to the regulators and to DOE.
- (c) In the event of termination or expiration of this contract, DOE will require the new contractor to accept transfer of all environmental permits executed by the Contractor, or DOE will accept responsibility for such permits and the

Contractor shall be relieved of all future liability and responsibility resulting from the acts or omissions of the successor contractor or DOE.

#### **H-10. Contractor Acceptance of Notices of Violation or Alleged Violations, Fines, and Penalties**

- (a) The Contractor shall accept, in its own name, services of notices of violations or alleged violations (NOVs/NOAVs) issued by Federal or state regulators to the Contractor resulting from the Contractor's performance of work under this contract, without regard to liability. The allowability of costs associated with fines and penalties shall be subject to the other provisions of this Contract.
- (b) The Contractor shall conduct negotiations with regulators regarding NOVs/NOAVs and fine and penalties; however, the Contractor shall not make any commitments or offers to regulators that would bind the Government, including monetary obligations, without receiving written concurrence from the Contracting Officer or his/her authorized representative prior to making any such offers/commitments. Failure to obtain such advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.
- (c) The Contractor shall notify DOE promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.

#### **H-11. Diversity**

- (a) The Contractor shall continue to maintain and implement a Diversity Program consistent with the DOE Diversity Strategic Plan.
- (b) A Diversity Plan shall also be maintained that address the Contractor's approach to ensure an effective Diversity Program (addressing applicable Affirmative Action and Equal Employment Opportunity regulations) to include: (1) a statement of the Contractor's policies and practices; (2) examples of planned initiatives and activities which demonstrate a commitment to a Diversity Program including recruitment strategies for hiring a diverse workforce; and (3) milestones to accomplish diversity initiatives. The Diversity Plan shall also address, as a minimum, the Contractor's approach for promoting diversity through (1) the Contractor's workforce, (2) its subcontractor's workforce, (3) conflict resolution, (4) educational outreach, (5) stakeholder involvement and outreach, (6) subcontracting with small, small disadvantaged and women-owned small business, (7) minority educational institutions, and (8) environmental justice.

#### **H-12. Corporate Home Office Expenses**



No corporate home office expense of the Contractor shall be allowable under this contract without the prior approval of the Contracting Officer. However, work performed at the Contractor's own facilities in support of this contract, when authorized by the Contracting Officer, may be allowed to bear the allocable portion of allowable corporate G&A expense.

### **H-13. Costs Associated With Whistleblower Actions**

- (1) Definitions:
  - (a) Covered contractors and subcontractors mean those contractors and subcontractors with contracts exceeding \$5,000,000.
  - (b) Employee whistleblower action means any action filed by an employee in Federal or state court for redress of a retaliatory act by a contractor and any administrative procedure initiated by an employee under 29 CFR Part 24, 48 CFR subpart 3.9, 10 CFR Part 708 or 42 U.S.C. 7239.
  - (c) Retaliatory act means a discharge, demotion, reduction in pay, coercion, restraint, threat, intimidation or other similar negative action taken against an employee by a contractor as a result of an employee's activity protected as a whistleblower activity by a Federal or state statute or regulation.
  - (d) Settlement and award costs means defense costs and costs arising from judicial orders, negotiated agreements, arbitration, or an order from a Federal agency or board and includes compensatory damages, underpayment for work performed, and reimbursement for a complainant employee's legal counsel.
- (2) For costs associated with employee whistleblower actions where a retaliatory act is alleged against a covered contractor or subcontractor, the contracting officer:
  - (a) May authorize reimbursement of costs on a provisional basis, in appropriate cases;
  - (b) Must consult with the Office of General Counsel whistleblower costs point of contact, who will consult with other Headquarters points of contact as appropriate, before making a final allowability determination; and
  - (c) Must determine allowability of defense, settlement and award costs on a case-by-case basis after considering the terms of the contract, relevant cost regulations, and the relevant facts and circumstances, including

federal law and policy prohibiting reprisal against whistleblowers, available at the conclusion of the employee whistleblower action.

- (3) Covered contractors and subcontractors must segregate legal costs, including costs of in-house counsel, incurred in the defense of an employee whistleblower action so that the costs are separately identifiable.
- (4) If a contracting officer provisionally disallows costs associated with an employee whistleblower action for a covered contractor or subcontractor, funds advanced by the Department may not be used to finance costs connected with the defense, settlement and award of an employee whistleblower action.
- (5) Contractor defense, settlement and award costs incurred in connection with the defense of suits brought by employees under section 2 of the Major Fraud Act of 1988 are excluded from coverage of this section.

#### **H-14. Separate Business Unit**

The work performed by the Contractor under this contract shall be conducted by a separate business unit (division, segment, etc.) from its parent(s) company. The separate business unit must be set up solely to perform this contract and shall be totally responsible for all contract activities.

#### **H-15. Guarantee of Performance**

Since the Contractor is a separate business unit from its parent company, the Contractor's parent company shall guarantee performance as evidenced by the Guarantee of Performance contained in Section K. If the Contractor is a joint venture or other similar entity where more than one company is involved, the parent companies shall assume joint and severable liability for the performance of the Contractor. In the event any of the signatories to the Guarantee of Performance enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

#### **H-16. Responsible Corporate Official**

Notwithstanding the provisions of the clause entitled "Guarantee of Performance" in Section H, the Government may contact, as necessary, the single responsible corporate official identified below, who is at a level above the Contractor and who is accountable for the performance of the Contractor, regarding Contractor performance issues. Should the responsible corporate official change during the period of the contract, the Contractor shall promptly notify the Government of the change in the individual to contact.

Name: T. F. Hash  
Position: President

Company: Bechtel National, Inc.

**H-17. Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan**

The "master" Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan, submitted by Contractor consistent with the provisions of the clause entitled, "Small Business Subcontracting Plan – Alternate II" in Section I, and approved by the Contracting Officer on September 26, 2003, is incorporated in and made a material part of this contract as Appendix C. Prior to the beginning of each fiscal year, the Contractor shall also submit an "annual" subcontracting plan which shall establish subcontracting goals as described in paragraph (d)(1) and (2) of the clause entitled "Small Business Subcontracting Plan – Alternate II" in Section I, to remain in effect for each fiscal year. The annual plan shall be reviewed for approval by the Contracting Officer and shall be incorporated by reference as a material part of this contract.

**H-18. Internal Audit**

The Contractor agrees to conduct internal audits and examinations, satisfactory to DOE, of records, operations, expenses, and transactions with respect to costs claimed to be allowable under this contract. All audit reports, including supporting documentation, shall be submitted or made available to the Contracting Officer or his/her designee.

**H-19. Allowable Cost**

- (a) The Government shall reimburse the Contractor for costs in amounts determined to be allowable in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR), as supplemented by Subpart 931.2 of the Department of Energy Acquisition Regulation (DEAR.)
- (b) Audit. At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be:
  - (1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or
  - (2) Adjusted for prior overpayments or underpayments.

**H-20. Representations, Certifications and Other Statements of the Offeror**

The Representations, Certifications, and Other Statements of the Offeror, dated August 29, 1997, for this contract are hereby incorporated, by reference, and made a part of this contract.

**H-21. Financial Management and Integrated Accounting System**

- (a) The Contractor shall maintain and administer a financial management system that includes an integrated accounting system satisfactory to DOE and in accordance with generally accepted accounting principles consistently applied and (1) is suitable to provide proper accounting in accordance with DOE requirements for assets, liabilities, collections accruing to the Contractor in connection with the work under this contract, expenditures costs, and encumbrances; (2) permits the preparation of accounts and accurate, reliable financial and statistical reports; and (3) assures that accountability for the assets can be maintained.
- (b) The integrated accounting system must be linked to DOE's accounts through the use of reciprocal accounts and have electronic capability to transmit monthly and year-end self-balancing trial balances to the DOE's Primary Accounting System.

**H-22. Privacy Act Systems of Record**

- (a) The Contractor shall continue to operate the following systems of records on individuals to accomplish an agency function to which the requirements of The Privacy Act, 5 U.S.C. 552(a), are deemed applicable:

<u>DOE SYSTEM NUMBER</u>	<u>TITLE</u>
5	Personnel Records of Former Contractor Employees
33	Personnel Medical Records
35	Personnel Radiation Exposure Records

The Contractor shall perform this requirement in accordance with the clause of this contract entitled, "Privacy Act" in Section I. It is understood that compliance with the Privacy Act will require certain changes to the Contractor's current record keeping procedures.

- (b) If DOE requires the Contractor to design, develop, or maintain additional systems of Government-owned records on individuals to accomplish an agency function, the Contracting Officer, or designee, shall so notify the Contractor in writing and such Privacy Act system shall be deemed added to the above list whether incorporated by formal contract modification or not. The parties shall mutually agree to a schedule for implementation of the Privacy Act with respect to each such system.

**H-23. Assignment of DOE Prime Contracts**

During the period of performance of this contract it may become necessary for the DOE to transfer and assign to the Contractor existing or future DOE prime

contracts supporting site work to this contract. The Contractor shall accept the assignment of these prime contracts. Details will be coordinated with the Contractor prior to the transfer.

#### **H-24. Workforce Transition and Management**

The Contractor shall adhere to the following requirements in its own, and subcontractor, human resources related actions.

- (a) **Transition to Subcontractors.** The Contractor will maintain processes that address transition of the workforce from its staff to subcontractors, if a future transition action is necessary. In staffing non-management positions, subcontractors will give right of first refusal to incumbent employees who were performing essentially identical functions. The requirements contained in this clause take precedence over the clause entitled "Displaced Employee Hiring Preference" in Section I. For subsequent subcontractor to subcontractor transitions, the Contractor's Transition processes shall describe an approach that is consistent with its technical and subcontracting approach.
- (b) **Pay and Benefits.** In order to minimize unnecessary disruption to the "grandfathered" workforce and minimize severance costs, "grandfathered" employees who transition to the first or second tier subcontractors will continue to retain substantially equivalent base pay and employee benefits, to include company service credit and the opportunity to continue to participate in the Multiple Employer Pension Plan and companion retiree medical benefit.
- (c) **Multiple Employer Pension Plan (MEPP).** The Contractor will continue to be the sponsoring employer for the MEPP and will have the responsibility of administering the MEPP and maintaining its qualified status.
- (d) **Severance Pay.** No severance pay is warranted on the date Contractor employees transition to the workforce transition subcontractors (or transition from subcontractor to subcontractor) since the transition occurs under substantially equivalent employment conditions. These employees will retain their severance pay benefit earned with the Contractor for assistance should they ever be involuntarily (except for cause) separated. Severance pay based on the length of service with the Contractor or subcontractor will be paid if an individual is subsequently involuntarily terminated (except for cause) by the Contractor, or by one of its subcontractors (to which the severance pay benefit has been transferred). Prorated repayment of severance pay will be required should an individual be subsequently employed under substantially equivalent pay and benefits, including the Multiple Employer Pension Plan, based upon the length of time between separation and new hire date.
- (e) **Labor Relations.** The Contractor and its subcontractors will continue to maintain positive labor-management relations with the appropriate collective bargaining representatives on all sites where it performs surveillance, maintenance, construction, and demolition work.

- (f) Employee Relations. The Contractor and its subcontractors are expected to maintain a positive employee relations environment that will foster high productivity at reasonable cost. The Contractor and its subcontractors shall implement effective employee concerns resolution programs.

#### **H-25. Advance Understanding on Human Resource Costs**

- (a) The DOE will continue to maintain advanced understandings (Appendix B) with the Contractor on certain human resource costs that will be reimbursed under this contract consistent with the provisions of the clause entitled "Allowable Cost" in Section H. These costs are those associated with human resource policies and systems which the contractor has reached agreement with DOE to apply to work under this contract. Any deviation from the advance understanding must be approved by DOE before such costs incurred will be considered allowable (either direct or indirect) under the subject contract. In addition, DOE approval is required for total annual reimbursed compensation paid to each person designated as Key Personnel in Appendix A, exclusive of any bonus or incentive compensation pay which, if paid by the Contractor, will be paid out of the Contractor's profit and not reimbursed under this contract. The Advance Understanding on Human Resource Costs is part of this contract and included in Appendix B.
- (b) Agreement will also be reached regarding the Contractor's plan to assure human resource costs are reasonable for work performed by major cost type subcontractors.
- (c) Relocation costs incurred with regard to relocating an employee to the work site are allowable in accordance with FAR 31.205-35, Relocation Costs, for this contract. However, the Contractor shall keep the number of employees relocated to a minimum. Unless otherwise agreed, exit relocation costs are not allowable.

#### **H-26. Determination of Appropriate Labor Standards**

DOE shall determine the appropriate labor standards, in accordance with the Service Contract Act, the Davis-Bacon Act, or other applicable labor laws which shall apply to work performed under this contract. Where requested by DOE, the Contractor shall provide such information in the form and time frame required by DOE, as may be necessary for DOE to make such labor standards determinations. The Contractor will then be responsible for ensuring that the appropriate labor standards provisions are included in subcontracts, and for obtaining and applying the appropriate wage determinations.

#### **H-27. Application of Labor Policies and Practices**

The Contractor agrees to conduct its labor relations program in accordance with DOE's intent that labor policies and practices reflect the best experience of

American industry in aiming to achieve the type of stable labor-management relations essential to the successful accomplishment of DOE's programs at reasonable cost. Collective bargaining will be left to the orderly processes of negotiation and agreement between Contractor management and certified employee representatives with maximum possible freedom from Government involvement. Contractor management's trusteeship for working on DOE facilities and programs critical to the National interest includes the duty to adopt practices which are fundamental to the friendly adjustment of disputes, and which experience has shown promote orderly collective bargaining relationships.

#### **H-28. Other Government Contractors.**

The Government may undertake or award other contracts for additional work or services. The Contractor agrees to fully cooperate with such other contractors and Government employees and carefully fit its own work to such other work as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Government employees. If DOE determines that the Contractor's activities may interfere with another DOE contractor, the Contracting Officer shall so notify the Contractor and the Contractor shall comply with any instructions the Contracting Officer may provide.

#### **H-29. Environmental Justice**

The Contractor will embrace the principles of Environmental Justice by complying with all applicable environmental regulations and by focusing on non-discrimination in its programs that affect human health and the environment. The Contractor will comply with Executive Order 12898 on Environmental Justice and ORO's Environmental Justice Strategic Plan.

#### **H-30. Cost Recovery**

If, at any time during the performance of the contract, the Contracting Officer disallows a cost(s) in accordance with FAR 42.8, the Contractor must repay the amount owed within 15 days of the Contracting Officer's written determination disallowing the cost(s). If the Contractor fails to repay the disallowed amount within the allotted time, the Contracting Officer may offset fee payments to recover the amount owed.

#### **H-31. Department of Energy Pilot Mentor-Protégé Program**

- (a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.
- (b) If the Contractor is an approved mentor under the Department of Energy Pilot Mentor-Protégé Program, the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

**H-32. Material Safety Data Sheet Availability**

The Contractor shall obtain, review and maintain a Material Safety Data Sheet (MSDS) in a readily accessible manner for each hazardous material (or mixture containing a hazardous material) ordered, delivered, stored or used. The Contractor agrees to maintain an accurate inventory and history of use of hazardous materials at each use and storage location.

**H-33. Protection of Government Property - Management of High-Risk Property and Classified Materials**

The Contractor shall take all reasonable precautions, and such other actions as may be directed by the contracting officer, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect government property in the Contractor's possession or custody. In addition, the contractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of the property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management regulations (41 CFR chapter 101), the Department of Energy Property Management Regulations (41 CFR chapter 109), and other applicable regulations.

High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. High-risk property includes proliferation sensitive, nuclear related dual use, export controlled, chemically or radioactively contaminated, hazardous, and specially designed and prepared property, including property on the militarily critical technologies list.

**H-34. Stop-Work and Shutdown Authorization**

In the event of an imminent health and safety hazard, every employee has the right to stop work immediately, when they are convinced a situation exists which places an individual and/or the environment in imminent danger. Actions should subsequently be coordinated with the DOE Field Office Manager and Contractor management. The stop work order should be promptly confirmed in writing from/to the Contracting Officer.

In the event of a non-imminent health and safety hazard, any employee has the right to suspend work when they perceive a situation exists which places an individual and/or the environment in an unsafe situation. Actions should subsequently be coordinated with the DOE Field Office Manager and Contractor management. The suspension order should be promptly confirmed in writing from/to the Contracting Officer.

Imminent Health and Safety Hazard is a given condition or situation which, if not immediately corrected, could result in serious injury or death, including exposure to



radiation and toxic/hazardous chemicals. Imminent Danger in relation to the Facility Safety Basis is a condition, situation or proposed activity which, if not terminated could cause, prevent mitigation of, or seriously increase the risk of (1) Nuclear Criticality, (2) Radiation Exposure, (3) Fire/Explosion, and/or (4) Toxic/Hazardous Chemical Exposure.

### **H-35. Basis for Change**

The DOE and the Contractor agree that accelerated closure is a cooperative effort where maximum flexibility and control of the work must be given to the Contractor while DOE objectively measures performance results. This will ensure effectiveness of the contract incentives and achievement of the closure objectives.

Both parties desire to minimize contract changes where possible. However, it is recognized that certain specific events may constitute a basis for a change in accordance with the "Changes – Cost Reimbursement – Alternate I" clause in Section I. Identified below are some of the events which could occur that may constitute a basis for a change. Also identified are some events which shall not constitute a basis for a change. These examples are not meant to be a complete listing of all possible events. In addition, while an event may be a basis for a change, it may or may not result in a revision to the target cost, target fee, and/or target completion dates.

#### **Events which may constitute a basis for change:**

- 1) DOE's failure to provide the funding identified in clause B.2.
- 2) DOE delay in providing funding which impedes Contractor's planned work.
- 3) DOE's failure to provide the GFS/I.
- 4) New regulatory agreements/documents
- 5) Changes to regulatory agreements/documents.
- 6) Additions to the list (Appendix E) or revisions to applicable directives.
- 7) DOE direction or DOE initiated actions which have a demonstrable effect on the performance of this contract.
- 8) New work.

#### **Events which shall not constitute a basis for change:**

- 1) Variances between actual quantities incurred versus quantities estimated.
- 2) Reasonable stoppage of work due to safety or environmental compliance.
- 3) Events caused by the Contractor and/or its subcontractor(s), or which are within the Contractor's/subcontractor's control.

### **H-36. Security**

- (a) Responsibility. It is the Contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information and

protecting against sabotage, espionage, loss or theft of the classified documents and material in the Contractor's possession in connection with the performance of work under this contract. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and types or categories of matter proposed for retention, the reasons for the retention of the matter, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

- (b) Regulations. The Contractor agrees to comply with all security and counterintelligence regulations and requirements of DOE incorporated by the clause entitled "Law, Regulations, and DOE Directives" in Section I.
- (c) Definition of classified information. The term "classified information" means Restricted Data, Formerly Restricted Data, or National Security Information.
- (d) Definition of restricted data. The term "Restricted Data" means all data concerning:
  - (1) design, manufacture, or utilization of atomic weapons;
  - (2) the production of special nuclear material; or
  - (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.
- (e) Definition of formerly restricted data. The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.
- (f) Definition of National Security Information. The term "National Security Information" means any information or material, regardless of its physical form or characteristics, that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.
- (g) Definition of Special Nuclear Material (SNM). SNM means:

- (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or
  - (2) any material artificially enriched by any of the foregoing, but does not include source material.
- (h) Security clearance of personnel. The Contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE's regulations or requirements applicable to the particular level and category of classified information to which access is required.
  - (i) Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12356).
  - (j) Subcontracts and purchase orders. Except as otherwise authorized in writing by the Contracting Officer, the Contractor shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this contract.

#### **H-37. Regulatory Reviews and Approvals**

The Department and the Contractor shall share responsibility for ensuring that all regulatory reviews and approvals required for execution of scope are successfully completed. While Department personnel shall retain primary responsibility for all direct interactions between DOE and regulatory personnel, the Contractor shall maximize the productivity of these interactions by ensuring that timely and high quality regulatory submittals are provided, and by ensuring that DOE personnel are fully informed on known regulatory requirements and commitments. The Contractor shall have primary responsibility for identifying and supporting all critical path regulatory approvals required for on schedule scope execution and shall include reasonable time in project schedules for the DOE staff to carry out their functions.

#### **H-38. Alternate Dispute Resolution**

The DOE and Contractor both recognize that methods for fair and efficient dispute resolution are essential to the successful completion of the accelerated closure of the Oak Ridge work by the Target Date and for the Target Cost identified in Section B of this contract. To facilitate the early resolution of disputes, the parties agree to the following alternative dispute resolution (ADR) provisions:

## (a) Standing Neutral

The parties agree to jointly select a "standing neutral" to be available to help resolve disputes as soon as they arise. This can be an individual or a company with specific expertise in this area. If a neutral cannot be agreed upon, the DOE Office of Dispute Resolution will assist the parties in this selection.

## (b) Early Resolution of Disputes

- (1) The Government and Contractor shall use their best efforts to informally resolve any dispute, claim, question or disagreement, by consulting and negotiating with each other in good faith, recognizing their mutual interests, and attempting to reach a just and equitable solution satisfactory to both parties. If an agreement cannot be reached through informal negotiations, then such disagreement shall be referred to the "standing neutral," pursuant to the procedures that are jointly developed.
- (2) If the neutral offers a non-binding advisory opinion, it shall not be admissible in evidence to any subsequent proceeding. All costs incurred by the Contractor in connection with the "standing neutral" shall, if reasonable, be an allowable cost reimbursable under this contract.

## (c) Formal Complaint

If the dispute has not been resolved through the "standing neutral" process, either party may request resolution under the Disputes Clause of the contract.

#### **H-39. Environmental Management Waste Management Facility (EMWMF) Reserve Capacity**

Upon contract completion, the Contractor shall ensure that there is adequate reserve capacity in accordance with the annual Capacity Assurance Remedial Action Report, remaining at the EMWMF site for disposal of waste resulting from remediation work that occurs beyond 2008.

#### **H-40. Withdrawal of IT Support**

DOE intends to withdraw the following work scope associated IT support and provide it as Government Furnished Services and Items (GFS&I):

- 1) Personal computing will include all equipment and services necessary for individual desktop locations including software, hardware, email service, data storage/file sharing, printed output capability, remote and non-remote

connectivity service, help desk support, user identifications, passwords and base accounts

- 2) Server management services for business applications, data operation and hosting of corporate services and periodic updates to meet process completions and processing requirements.
- 3) Other services will include enterprise engineering and consulting, company level information management support, cyber security, and information technology operations management support. Telecommunications support to include interface with providers, paging, secure telephone equipment, video conferencing, and radio engineering and maintenance.